

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

(through videoconferencing)

CrlM No. 1275/2024 in
CrlA(D) No. 65/2024

UT of J&K through, SHO P/S Chadoora ...Appellant(s)/

Through: Mr. Fahim Nisar Shah, GA

Vs.

Showkat Ahmad Tantry ...Respondent(s)
S/O Mohammad Ramzan Tantry
R/O Waripora DAMhal Hanjipora Kulgam

Through: Mr. Wajid Haseeb, Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MA CHOWDHARY

ORDER
24.02.2025

Tashi Rabstan, CJ:

- CrlM No. 1275/2024** is an application filed by the State seeking condonation of delay of 230 days in filing the appeal.
- In support of his submissions, Mr. Fahim Nisar Shah, learned GA appearing for the applicant/appellant submits that the judgment against which the appeal is sought to be filed is passed on 29.12.2023. The file was processed for sanction and on 03.07.2024, the sanction was obtained. The certified copy of the said judgment was received on 12.07.2024 after 200 days. On 04.09.2024, the appeal was filed only after 52 days of obtaining the sanction. Hence, the delay of 230 days is caused in filing the appeal.

3. Learned counsel for the applicant/appellant submits that the delay caused on the part of the State in filing the appeal is neither intentional nor willful.

4. Learned counsel for the applicant submits that the grounds in the appeal are strong on merits and the applicant/appellant is sure to succeed in the appeal and, in case, the delay is not condoned, there would be grave miscarriage of justice.

5. On the other hand, Mr. Wajid Haseeb, Advocate submits that the condonation of delay application is without any basis. The contents of the application are vague. There is no ground let alone plausible ground urged in the application which would goad the court to condone the delay. Lastly, it is urged that the condonation of delay application being a charade, may kindly be rejected forthwith with heavy costs.

6. Heard learned counsel for the applicants and perused the application.

7. The condonation of delay application accompanied with appeal was filed on 04.09.2024 after a huge delay of 230 days. A perusal of the condonation of delay application would show that the application has been drafted very casually without even bothering to mention the date of getting the certified copy of the impugned order.

8. There is also no plausible and cogent explanation forthcoming in the application. Besides, it is also not a case where the judgment impugned has been passed *ex parte* and the applicant was oblivious of the same. The order was passed on 29.12.2023 and the applicants were represented by learned APP before the trial court. No convincing explanation has been tendered in

the application except the inter-departmental communications, which could justify the time which the applicants have taken in filing the appeal.

9. It is a sordid state of affairs to note that the applicants took clear 7 months to obtain sanction from competent authority. The reasons shown for delay in the application in our view are not worth-having, that could sway this court and dissuade us to condone the delay.

10. We are fortified in our view by the judgment of Hon'ble the Supreme Court in appeal bearing Civil Appeal No. 2474-2475 of 2012 (Arising out of SLP (C) Nos.7595-96 of 2011 dated 24.02.2012) titled *Office of the Chief Post Master General & Ors. V. Living Media India Ltd. and Another*, wherein the Supreme Court opined on no proper explanation for delay as:-

“In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering

the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

11. Hon’ble the Supreme Court while dismissing *SLP (Civil) Diary No(s).19846/2020* titled as *Union of India Vs. Central Tibetan Schools Admin & Ors.*, on 04.02.2021 on account of delay observed as under:-

“We have repeatedly been counselling through our orders various Government departments, State Governments and other public authorities that they must learn to file appeals in time and set their house in order so far as the legal department is concerned, more so as technology assists them. This appears to be falling on deaf ears despite costs having been imposed in number of matters with the direction to recover it from the officers responsible for the delay as we are of the view that these officers must be made accountable. It has not had any salutary effect and that the present matter should have been brought up, really takes the cake!

The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than

the lethargy and incompetence of the petitioner, there is nothing which has been put on record. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the Statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgment in the State of Madhya Pradesh & Ors. v. Bheru Lal [SLP [C] Diary No.9217/2020 decided on 15.10.2020] and The State of Odisha & Ors. v. Sunanda Mahakuda [SLP [C] Diary No. 22605/2020 decided on 11.01.2021].....”

12. Having regard to above referred judgments and facts of the case, we hold that the applicant has filed this application in a cavalier manner as a routine matter for the sake of mere formality. The lackadaisical tendency exhibited by the State is writ large in the present case. Despite the availability of huge manpower and machinery at its disposal, the State has dealt with the matter with supine indifference. The reasons for delay are not forthcoming from the application. Much to our chagrin, the State has taken 7 months in obtaining sanction. Even after obtaining sanction, it has taken 52 days to file the appeal. The reason for delay on this count is not whispered in the application to our utter surprise, let alone satisfactorily explained despite the fact that the applicant was supposed to explain each and every day's delay.

13. In view of the facts and circumstances of the case, discussions made hereinabove and the settled law position enunciated above, we view that delay of 230 days in filing the appeal is not satisfactorily explained. The condonation of delay application, in view of what has been stated and analyzed above, is accordingly dismissed.

14. CrIM No.1275/2024 is dismissed.

15. As a result, the accompanying appeal is also dismissed.

16. There shall be no order as to costs.

JAMMU
24.02.2025
Raj Kumar

(M A CHOWDHARY)
JUDGE

(TASHI RABSTAN)
CHIEF JUSTICE

Whether the order is speaking? : Yes/No.

Whether the order is reportable? : Yes/No.